IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6758 OF 2004

Kum.Asmita Anil Bhoir .. Petitioner

Versus

State of Maharashtra & Ors. .. Respondents

Mr.R.K.Mendadkar for the petitioner

Mr.C.R.Sonawane, A.G.P.for respondent no.1, 2 and 5

CORAM: A.P.SHAH &
S.U.KAMDAR, JJ

DATED: 20TH SEPTEMBER, 2004

ORAL JUDGMENT (PER S.U.KAMDAR, J.):

1. By the present petition, the petitioner has challenged the order passed by the Caste Scrutiny Committee invalidating the claim of the petitioner as belonging to Mahadeo Koli which is one of the notified Scheduled Tribe. Some of the material facts are as under:

2. The petitioner who is a resident of Alibaug Taluka, District Raigad was granted the caste certificate on 7th January 2002 certifying that he

belongs to Mahadeo Koli, Scheduled Tribe. Some time in or about 2004 the petitioner obtained an admission in the 3rd respondent College for D.Ed. Course. The said admission was obtained under the reserved category of Scheduled Tribe. The said admission was granted subject to the caste verification by he Caste Scrutiny Committee. On 25th March 2003 an application was filed by the petitioner with the 2nd respondent committee for verification of the caste claim and alongwith such application she filed various documents in support of her claim. On 30th April 2004, the 2nd respondent committee has invalidated the caste certificate of the petitioner as belonging to Mahadeo Koli.

3. The learned counsel appearing for the petitioner has drawn our attention to the fact that the petitioner produced various documents, some of which are as old as 24th February 1915. He has further submitted that he has produced two primary School Leaving Certificates of blood relatives i.e. Dharma Babaji Bhoir showing his caste as Dongar

Koli. He has also produced a primary school abstract in respect of her another blood relative Sitaram Babaji Bhoir who is from her parental side and his caste certificate is also shown as Dongar Koli. The respondents have filed an affidavit in reply in this court. In paragraph 5 of the reply, respondents have admitted the production of aforesaid documents and has also admitted that they are blood relatives of the petitioner. It is further admitted that documents produced are all prior to 1950.

5. We find on perusal of the order passed by the Caste Scrutiny Committee that there is no discussion of any nature whatsoever considering the aforesaid documents which are produced by the petitioner. The Caste Scrutiny Committee was required to consider the aforesaid documents and its probative value in view of the Judgment of the Supreme Court in the case of Kumari Madhuri Patil and Another vs. Addl. Commissioner, Tribal Development And Others reported in (1994) 6 Supreme Court Cases 241.

6. In view of the fact that the Caste Scrutiny Committee has failed to consider the documents which are produced before it, we are left with no other alternative but to quash and set aside the order passed by the Caste Scrutiny Committee dated 30th April 2004 and remand the matter back to the Caste Scrutiny Committee for consideration of the documents which are produced by the petitioner in respect of her caste claim and pass appropriate orders after giving a hearing to the petitioner herein. It is needless to state that the Caste Scrutiny Committee will consider the probative value of the documents which are produced before them and thereafter pass necessary orders in that behalf.

7. We direct that the Caste Scrutiny Committee to dispose of the application as expeditiously as possible and in any event on or before 31st December 2004. In an event, if such an order is adverse to the petitioner herein then the same will not be given effect to for a period of 2 weeks from

the date of communication of the said order to the petitioner. With the aforesaid direction, we dispose of the petition. However, there shall be no order as to costs.